



House of Representatives

General Assembly

File No. 590

January Session, 2011

House Bill No. 6314

House of Representatives, April 20, 2011

The Committee on Judiciary reported through REP. FOX of the 146th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

**AN ACT CONCERNING THE SEXUAL ASSAULT OF PERSONS
PLACED OR TREATED UNDER THE DIRECTION OF THE
COMMISSIONER OF DEVELOPMENTAL SERVICES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-71 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) A person is guilty of sexual assault in the second degree when
4 such person engages in sexual intercourse with another person and: (1)
5 Such other person is thirteen years of age or older but under sixteen
6 years of age and the actor is more than three years older than such
7 other person; or (2) such other person is mentally defective to the
8 extent that such other person is unable to consent to such sexual
9 intercourse; or (3) such other person is physically helpless; or (4) such
10 other person is less than eighteen years old and the actor is such
11 person's guardian or otherwise responsible for the general supervision
12 of such person's welfare; or (5) such other person is in custody of law
13 or detained in a hospital or other institution and the actor has

14 supervisory or disciplinary authority over such other person; or (6) the
15 actor is a psychotherapist and such other person is (A) a patient of the
16 actor and the sexual intercourse occurs during the psychotherapy
17 session, (B) a patient or former patient of the actor and such patient or
18 former patient is emotionally dependent upon the actor, or (C) a
19 patient or former patient of the actor and the sexual intercourse occurs
20 by means of therapeutic deception; or (7) the actor accomplishes the
21 sexual intercourse by means of false representation that the sexual
22 intercourse is for a bona fide medical purpose by a health care
23 professional; or (8) the actor is a school employee and such other
24 person is a student enrolled in a school in which the actor works or a
25 school under the jurisdiction of the local or regional board of education
26 which employs the actor; or (9) the actor is a coach in an athletic
27 activity or a person who provides intensive, ongoing instruction and
28 such other person is a recipient of coaching or instruction from the
29 actor and (A) is a secondary school student and receives such coaching
30 or instruction in a secondary school setting, or (B) is under eighteen
31 years of age; or (10) the actor is twenty years of age or older and stands
32 in a position of power, authority or supervision over such other person
33 by virtue of the actor's professional, legal, occupational or volunteer
34 status and such other person's participation in a program or activity,
35 and such other person is under eighteen years of age; or (11) such
36 other person is placed or treated under the direction of the
37 Commissioner of Developmental Services in any public or private
38 facility or program and the actor has supervisory or disciplinary
39 authority over such other person.

40 (b) Sexual assault in the second degree is a class C felony or, if the
41 victim of the offense is under sixteen years of age, a class B felony, and
42 any person found guilty under this section shall be sentenced to a term
43 of imprisonment of which nine months of the sentence imposed may
44 not be suspended or reduced by the court.

45 Sec. 2. Section 53a-73a of the general statutes is repealed and the
46 following is substituted in lieu thereof (*Effective October 1, 2011*):

47 (a) A person is guilty of sexual assault in the fourth degree when: (1)
48 Such person intentionally subjects another person to sexual contact
49 who is (A) under thirteen years of age and the actor is more than two
50 years older than such other person, or (B) thirteen years of age or older
51 but under fifteen years of age and the actor is more than three years
52 older than such other person, or (C) mentally defective or mentally
53 incapacitated to the extent that such other person is unable to consent
54 to such sexual contact, or (D) physically helpless, or (E) less than
55 eighteen years old and the actor is such other person's guardian or
56 otherwise responsible for the general supervision of such other
57 person's welfare, or (F) in custody of law or detained in a hospital or
58 other institution and the actor has supervisory or disciplinary
59 authority over such other person; or (2) such person subjects another
60 person to sexual contact without such other person's consent; or (3)
61 such person engages in sexual contact with an animal or dead body; or
62 (4) such person is a psychotherapist and subjects another person to
63 sexual contact who is (A) a patient of the actor and the sexual contact
64 occurs during the psychotherapy session, or (B) a patient or former
65 patient of the actor and such patient or former patient is emotionally
66 dependent upon the actor, or (C) a patient or former patient of the
67 actor and the sexual contact occurs by means of therapeutic deception;
68 or (5) such person subjects another person to sexual contact and
69 accomplishes the sexual contact by means of false representation that
70 the sexual contact is for a bona fide medical purpose by a health care
71 professional; or (6) such person is a school employee and subjects
72 another person to sexual contact who is a student enrolled in a school
73 in which the actor works or a school under the jurisdiction of the local
74 or regional board of education which employs the actor; or (7) such
75 person is a coach in an athletic activity or a person who provides
76 intensive, ongoing instruction and subjects another person to sexual
77 contact who is a recipient of coaching or instruction from the actor and
78 (A) is a secondary school student and receives such coaching or
79 instruction in a secondary school setting, or (B) is under eighteen years
80 of age; or (8) such person subjects another person to sexual contact and
81 (A) the actor is twenty years of age or older and stands in a position of

82 power, authority or supervision over such other person by virtue of
83 the actor's professional, legal, occupational or volunteer status and
84 such other person's participation in a program or activity, and (B) such
85 other person is under eighteen years of age; or (9) such person subjects
86 another person to sexual contact who is placed or treated under the
87 direction of the Commissioner of Developmental Services in any
88 public or private facility or program and the actor has supervisory or
89 disciplinary authority over such other person.

90 (b) Sexual assault in the fourth degree is a class A misdemeanor or,
91 if the victim of the offense is under sixteen years of age, a class D
92 felony.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	53a-71
Sec. 2	October 1, 2011	53a-73a

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Judicial Dept.	GF - Potential Revenue Gain	10,000	10,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes clear that sexual assault in the 2nd and 4th degrees includes sexual intercourse between a client of the Department of Developmental Services and any day services workers with disciplinary or supervisory authority over the client in any public or private facility or program. This change would result in a revenue gain of less than \$10,000 to the General Fund. The estimate assumes that the establishment of a fine and/or imprisonment for this offense will increase the likelihood that an estimated less than five offenders annually would be prosecuted and receive harsher penalties than under current law.¹

It is anticipated that the number of additional offenders placed on probation would be less than five, and would not result in additional resources being required by the Judicial Department.

The Out Years

The annualized potential ongoing costs identified above would

¹ There have been four convictions since 2001 under existing provisions in these statutes, which prohibit sexual intercourse between clients in the custody of law enforcement or detained in a hospital or other institution and actors with supervisory or disciplinary authority over the clients.

continue into the future subject to inflation; the annualized potential revenue gain would remain constant since fine amounts are set by statute.

Sources: Judicial Department Offenses and Revenue Database

OLR Bill Analysis**HB 6314*****AN ACT CONCERNING THE SEXUAL ASSAULT OF PERSONS PLACED OR TREATED UNDER THE DIRECTION OF THE COMMISSIONER OF DEVELOPMENTAL SERVICES.*****SUMMARY:**

This bill makes it second- or fourth-degree sexual assault to have sexual intercourse or intentional sexual contact, respectively, with someone when the perpetrator has disciplinary or supervisory authority over the victim who is placed or treated under the developmental services commissioner's direction in a facility or program, whether public or private.

Second-degree sexual assault is a class C felony unless the victim is under age 16, in which case it is a class B felony. In either case, the law requires a mandatory minimum of nine months' imprisonment for second-degree sexual assault. A class C felony is punishable by up to 10 years' imprisonment, up to a \$10,000 fine, or both. A class B felony is punishable by up to 20 years' imprisonment, up to a \$15,000 fine, or both.

Fourth-degree sexual assault is a class A misdemeanor unless the victim is under age 16, in which case it is a class D felony. A class A misdemeanor is punishable by up to one year in prison, a \$2,000 fine, or both. A class D felony is punishable by up to five years' imprisonment, up to a \$ 5,000 fine, or both.

The law already provides that it is second-degree sexual assault to have sexual intercourse (1) with someone who is mentally defective to the extent that the person is unable to consent or (2) when the perpetrator has supervisory or disciplinary authority over the victim who is in custody or detained in a hospital or other institution. It is

fourth-degree sexual assault to have intentional sexual contact (1) with someone who is mentally defective or mentally incapacitated to the extent that the person is unable to consent or (2) when the perpetrator has supervisory or disciplinary authority over the victim who is in custody or detained in a hospital or other institution.

EFFECTIVE DATE: October 1, 2011

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 41 Nay 0 (03/30/2011)